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3 UNITED STATES DISTRICT COURT
4 WESTERN DISTRICT OF WASHINGTON
5 AT TACOMA

6 UNITED STATES OF AMERICA,

7 Plaintiff,

8 v.

9 TONY BURCHETT,

10 Defendant.

CASE NO. CR08-5347BHS

ORDER DENYING
DEFENDANT'S MOTION TO
PROCEED PRO SE

11 This matter comes before the Court on Defendant Tony Burchett's ("Burchett")
12 motion to proceed *pro se* (Dkt. 33).

13 On May 2, 2008, the Court appointed an attorney to represent Burchett in this
14 criminal proceeding. Dkt. 5. On October 27, 2008, the Court sentenced Burchett to 108
15 months incarceration with credit for time served in federal custody and 3 years supervised
16 release. Dkt. 27. On December 12, 2011, Burchett filed a motion to alter the current
17 judgment. Dkt. 30. Burchett argued that "the Federal Bureau of Prisons has
18 misconstrued what this Court has stated in its previous order and refuses to credit the
19 Defendant's Federal Sentence with such ordered credit." *Id.* at 1. On December 14,
20 2011, the Court denied the motion because Burchett filed the motion *pro se* while he was
21 represented by counsel. Dkt. 32. On January 3, 2012, Burchett filed a motion to proceed
22 *pro se*. Dkt. 33.

24 When a person in federal confinement challenges the manner or conditions of the
25 execution of his sentence, it is properly construed as a petition under 28 U.S.C. § 2241.
26 *See Hernandez v. Campbell*, 204 F.3d 861, 864 (9th Cir. 2000) (per curiam). Absent
27 unusual circumstances, a habeas petition filed pursuant to § 2241 must be heard in the
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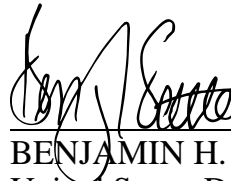
1 judicial district where petitioner is under custody. *Id.* at 865. “The plain language of the
2 habeas statute thus confirms the general rule that for core habeas petitions challenging
3 present physical confinement, jurisdiction lies in only one district: the district of
4 confinement.” *Rumsfeld v. Padilla*, 542 U.S. 426, 443 (2004).

5 In this case, Burchett is challenging the execution of his sentence and is currently
6 confined in Tucson, Arizona. The proper way for Burchett to bring this challenge is to
7 file a § 2241 petition in the district of confinement.

8 Therefore, it is hereby **ORDERED** that Burchett’s motion to proceed *pro se* (Dkt.
9 33) is **DENIED**. The Clerk is directed to send a copy of this order to Burchett along with
10 a copy of a § 2241 petition.

11 DATED this 10th day of February, 2012.

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BENJAMIN H. SETTLE
United States District Judge